Article 170 E

Travaux Préparatoires (EPC 1973)

Comment:

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Art. 17o
MPÜ
Aufnahmebeitrag

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MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 30 September 1973
M/146/R 7
Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

Subject: Convention: Articles 167 to 178
Article 169
Initial contribution

(1) Unchanged from 1972 published text

(2) Concerns the German text only.

(3) Unchanged from 1972 published text
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 25 September 1973
M/132/III/R 1
Original: English/French/German

TEXTS DRAWN UP BY
THE DRAFTING COMMITTEE OF MAIN COMMITTEE III
AT THE MEETING ON 24 SEPTEMBER 1973

Articles of the Convention:      Articles 35
                                36
                                38
                                41
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                                47
                                51
                                148
                                169
**Artikel 168**

*Inkrafttreten*


(2) Jede Ratifikation oder jeder Beitritt nach Inkrafttreten dieses Übereinkommens wird am ersten Tag des dritten Monats nach der Hinterlegung der Ratifikations- oder Beitrittssurkunde wirksam.

**Artikel 169**

*Aufnahmebeitrag*

(1) Jeder Staat, der nach Inkrafttreten dieses Übereinkommens das Übereinkommen ratifiziert oder ihm beiträgt, hat der Organisation einen Aufnahmebeitrag zu zahlen, der nicht zurückgezahlt wird.

(2) Der Aufnahmebeitrag beträgt 5% des Betrags, der in der Weise errechnet wird, daß die sich für den betreffenden Staat ergebende Prozentzahl des in Artikel 38 Absätze 3 und 5 vorgesehenen Aufbringungsschlüssels, die zu dem Zeitpunkt gilt, zu dem die Ratifikation oder der Beitritt wirksam wird, auf die Summe der von den übrigen Vertragsstaaten bis zum Abschluß des diesem Zeitpunkt vorangehenden Haushaltsjahres geschuldeten besonderen Finanzbeiträge anwendet wird.

(3) Werden besondere Finanzbeiträge für das Haushaltsjahr, das dem in Absatz 2 genannten Zeitpunkt vorausgeht, nicht mehr gefordert, so ist der in Absatz 2 genannte Aufbringungsschlüssel derjenige, der auf den betreffenden Staat auf der Grundlage des letzten Jahres, für das besondere Finanzbeiträge zu zahlen waren, anwendbar gewesen wäre.

**Artikel 170**

*Geltungsdauer des Übereinkommens*

Dieses Übereinkommen wird auf unbegrenzte Zeit geschlossen.

**Artikel 171**

*Revision*

(1) Dieses Übereinkommen kann durch Konferenzen der Vertragsstaaten revidiert werden.


**Artikel 168**

*Entry into force*

(1) This Convention shall enter into force three months after the deposit of the last instrument of ratification or accession by six States on whose territory the total number of patent applications filed in 1970 amounted to at least 180,000 for all the said States.

(2) Any ratification or accession after the entry into force of this Convention shall take effect on the first day of the third month after the deposit of the instrument of ratification or accession.

**Artikel 169**

*Initial contribution*

(1) Any State which ratifies or accedes to this Convention after its entry into force shall pay to the Organisation an initial contribution, which shall not be refunded.

(2) The initial contribution shall be 5% of an amount calculated by applying the percentage obtained for the State in question, on the date on which ratification or accession takes effect, in accordance with the scale provided for in Article 38, paragraphs 3 and 5, to the sum of the special financial contributions due from the other Contracting States in respect of the accounting periods preceding the date referred to above.

(3) In the event that special financial contributions were not required in respect of the accounting period immediately preceding the date referred to in paragraph 2, the scale of contributions referred to in that paragraph shall be the scale that would have been applicable to the State concerned in respect of the last year for which financial contributions were required.

**Artikel 170**

*Duration of the Convention*

The present Convention shall be of unlimited duration.

**Artikel 171**

*Revision*

(1) This Convention may be revised by a Conference of the Contracting States.

(2) The Conference shall be prepared and convened by the Administrative Council. The Conference shall not be deemed to be validly constituted unless at least three-quarters of the Contracting States are represented at it. In order to adopt the revised text there must be a majority of three-quarters of the Contracting States represented and voting at the Conference. Abstentions shall not be considered as votes.
MÜNCHNER DIPLOMATISCHE KONFERENZ
ÜBER DIE EINFÜHRUNG EINES EUROPÄISCHEN
PATENTerteilungsverfahrens 1973

(München, 10. September bis 6. Oktober 1973)

MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS, 1973

(Munich, 10 September to 6 October 1973)

CONFERENCE DIPLOMATIQUE DE MUNICH
POUR L'INSTITUTION D'UN SYSTÈME EUROPÉEN
DE DÉLIVRANCE DE BREVETS
(1973)

(Munich, 10 septembre - 6 octobre 1973)

VORBEREITENDE DOKUMENTE
ausgearbeitet von der
Regierungskonferenz über die Einführung eines europäischen Patenterteilungsverfahrens
herausgegeben von der
Regierung der Bundesrepublik Deutschland

PREPARATORY DOCUMENTS
drawn up by the
Inter-Governmental Conference for the setting up of a European System for the Grant of Patents
and published by the
Government of the Federal Republic of Germany

DOCUMENTS PRÉPARATOIRES
élaborés par la
Conférence intergouvernementale pour l'institution d'un système européen de délivrance de brevets
et publiés par le
Gouvernement de la République fédérale d'Allemagne

1972
Article 158

134. The Conference decided that the advances for the first accounting period (Article 158, paragraph 2) should also attract interest and that if Contracting States did not pay them when they fell due, they should pay interest on arrears.

Article 166

135. The Conference fixed the initial contribution to be paid by a State according to the Convention after its entry into force (Article 166) at 5% of the amount calculated in paragraph 2. The square brackets in paragraph 2 were therefore deleted.
M I N U T E S

of the

6th meeting of the Inter-Governmental Conference
for the setting up of a European System
for the Grant of Patents
(Luxembourg, 19 to 30 June 1972)
Article 166 (165a)

Initial contribution

(1) Any State which ratifies or accedes to this Convention after its entry into force shall pay to the Organisation an initial contribution, which shall not be refunded.

(2) The initial contribution shall be \[
\left\lfloor \frac{5}{\%}\right\rfloor
\]
of an amount calculated by applying the percentage obtained for the State in question, on the date on which ratification or accession takes effect, in accordance with the scale provided for in Article 38, paragraph 3, to the sum of the special financial contributions due from the other Contracting States in respect of the accounting periods preceding the date referred to above.

(3) In the event that special financial contributions were not required in respect of the accounting period immediately preceding the date referred to in paragraph 2, the scale of contributions referred to in that paragraph shall be the scale that would have been applicable to the State concerned in respect of the last year for which financial contributions were required.
DRAFT CONVENTION

ESTABLISHING A EUROPEAN SYSTEM

FOR THE GRANT OF PATENTS

(Stage reached on 20 May 1972)
the percentage, and in favour of a fixed percentage already laid down by the Convention. Several suggestions, ranging from 1% to 8%, having been submitted, the Working Party agreed to insert between square brackets the figure of 5%, arrived at by compromise, and the Conference would be required to reach a final decision.

- The United Kingdom delegation noted that certain difficulties could arise with regard to the calculation of the total amount of contributions paid by the other States. Firstly, it would be preferable to refer, not to contributions paid, but contributions due. Secondly, if accession took place within a financial year, there could be uncertainty as to the dates on which the contributions of the various States were due. To lessen such difficulties, the United Kingdom proposed that the calculation should be based on the amounts due in the financial years prior to the date of accession.

Finally, the Working Party recorded its agreement on a system based on the German delegation's formula and which took into account the remarks made by the other delegations, it being understood that the percentage required for determining the initial contribution would have to be laid down in the Convention.

Article 171a (Financial rights and obligations of a Contracting State which ceases to be a party to the Convention)

14. No delegation raised objections regarding the principle laid down in paragraph 1 concerning the reimbursement of the special financial contributions to a State which ceased to be party to the Convention.

BR/178 e/72 eld/PA/prk .../...
13. The Working Party then attempted to determine the criteria by which the amount of the initial contribution should be calculated. It was immediately ruled out that this could be an amount fixed in each case as a result of negotiations between the Administrative Council and the Applicant State.

The German delegation suggested that this amount should be determined by calculating a percentage of the total contributions which the State in question would have had to pay if it had acceded from the beginning.

When this suggestion was, in principle, received favourably by most of the delegations, the German delegation gave details of this system, proposing that the following procedure be adopted:

(i) that the total of the amounts paid by the date of the new State’s accession by the States already parties to the Convention should be calculated;

(ii) that the scale for the special financial contributions which would have been applicable on that date to the Applicant State should be applied to this amount;

(iii) that the amount to be paid by this State should be determined by multiplying the amount arrived at in (ii) by a percentage within a bracket of 3% to 5%, to be decided by the Administrative Council.

Several observations were made regarding this:

- The majority of the delegations were opposed to the Administrative Council’s having the power to determine
by the German delegation, the Working Party decided to delete the last sentence of paragraph 1, which was superfluous in view of paragraph 1(b) of Article 35b, and to insert the term of office of the Auditors in the first sentence.

Article 165a (Initial contribution)

11. The Working Party examined the question whether States which accede to the Convention after its entry into force should pay an "entry fee" in addition to their special contributions from the date of their accession.

The Working Party considered first the question of principle, as to whether such an initial contribution should be provided for.

The majority of the delegations gave an affirmative reply. It was pointed out, in particular, that it seemed fair to request an initial contribution, since States which accede after the entry into force of the Convention would benefit from the investments already made and work already done by the other States.

12. On the other hand, it was emphasized that, the principle of the contribution having been agreed, the amount of the latter should be calculated in such a way as not to discourage the accession of applicant States: with this in mind, the majority of the delegations favoured an amount situated somewhere between a symbolic sum and the exact amount which the acceding State would have had to pay if it had acceded when the Convention first took effect. Furthermore, it was agreed that this would be a single, non-reimbursable payment.
MINUTES

of the 4th meeting of Working Party IV
(Luxembourg, 22 to 24 February 1972)


A representative of the International Patent Institute at The Hague attended the meeting as an observer. Representatives of WIPO, the Commission of the European Communities and the General Secretariat of the Council of Europe sent their apologies for being unable to be present. (1)


(1) The list of participants is annexed.

BR/178 e/72 eld/TA/gc
Article 155a

Initial contribution

(1) Any State which ratifies or accedes to this Convention after its entry into force shall pay to the European Patent Office an initial contribution, which shall not be refunded.

(2) The contribution referred to in paragraph 1 shall be $5\%$ of an amount calculated by applying the percentage obtained for the State in question, on the date on which ratification or accession takes effect, in accordance with the scale provided for in Article 44, paragraph 3, to the sum of the special financial contributions due from the other Contracting States in respect of the accounting periods preceding the date referred to above.

(3) In the event that special financial contributions were not required in respect of the accounting period immediately preceding the date referred to in paragraph 2, the scale of contributions referred to in that paragraph shall be the scale that would have been applicable to the State concerned in respect of the last year for which financial contributions were required.
SECOND PRELIMINARY DRAFT OF A CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

Articles 35b
35n
41
44
45
52
52b
52d
165a
171a

drawn up by Working Party IV
(22 to 24 February 1972)

BR/173 e/72 prk
Article 170

Initial contribution

(1) Any State which ratifies or accedes to this Convention after its entry into force shall pay to the Organisation an initial contribution, which shall not be refunded.

(2) The initial contribution shall be 5% of an amount calculated by applying the percentage obtained for the State in question, on the date on which ratification or accession takes effect, in accordance with the scale provided for in Article 8 paragraphs 3 and 4, to the sum of the special financial contributions due from the other Contracting States in respect of the accounting periods preceding the date referred to above.

(3) In the event that special financial contributions were not required in respect of the accounting period immediately preceding the date referred to in paragraph 2, the scale of contributions referred to in that paragraph shall be the scale that would have been applicable to the State concerned in respect of the last year for which financial contributions were required.